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7 UNITED STATES DISTRICT COURT

8 DISTRICT OF NEVADA

9 RANDOLPH DAY,

10 Plaintiff,

11 v.

12 LONGVUE MORTGAGE CAPITAL INC.,
13 as Trustee for WESTSVUE NPL TRUST II;
14 FIRST AMERICAN SOLUTIONS, LLC and
DOES I-X; and ROE Corporations I-X,
inclusive,

15 Defendants.
16

Case No. 2:17-cv-01596-JAD-CWH

**STIPULATION AND ORDER TO
EXTEND DISCOVERY DEADLINES**

[THIRD REQUEST]

17 Plaintiff Randolph Day ("Plaintiff") and Defendant, Long Vue Mortgage Capital, Inc., as
18 Trustee for WestVue NPL Trust II ("Defendant") (collectively the "Parties") by and through
19 their respective counsels of record, hereby submit the following Stipulation and Order to extend
20 discovery deadlines for 30 days.

21 **A. DISCOVERY COMPLETED TO DATE:**

22 Defendant served its Initial Disclosure of Witnesses and Documents on September 7,
23 2018. On November 28, 2018, Defendant served written discovery and noticed the deposition of
24 Plaintiff for January 8, 2019. Plaintiff responded to Defendant's written discovery on December
25 31, 2018. On January 4, 2019, Defendants served supplemental disclosures. Plaintiff served
26 written discovery on or about January 15, 2019, and Defendants responded on February 28,
27 2019.

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1 Defendant served its Second Supplemental Disclosure of Witnesses and Documents on
2 March 7, 2019, and deposed Plaintiff on March 8, 2019.

3 **B. DISCOVERY ANTICIPATED TO BE COMPLETED IN THE FUTURE:**

- 4 1. Deposition of non-party Mary Day, currently scheduled for Tuesday, April 9,
5 2019;
- 6 2. Deposition of Defendant's FRCP 30(b)(6) designee, currently scheduled for
7 Thursday, April 25, 2019;
- 8 3. In-person inspection of LongVue collateral file and related documentation, to be
9 scheduled; and
- 10 4. Subpoenas duces tecum for the following entities and individuals:
 - 11 a. Flagstar Bank;
 - 12 b. First American Trustee Servicing Solutions, LLC;
 - 13 c. Northwest Trustee Services;
 - 14 d. FCI Lender Services, Inc.; and
 - 15 e. Sharon Morgan.

16 **C. REASONS WHY DISCOVERY SHOULD BE EXTENDED:**

17 Good cause exists to extend the April 11, 2019, discovery deadline by an additional 30
18 days. The Parties request an extension because discovery cannot be reasonably concluded
19 despite the Parties' diligence to date. *See Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604,
20 608-09 (9th Cir. 1992). After Plaintiff's March 8, 2019, deposition, Defendant noticed the
21 deposition of non-party Mary Day. Furthermore, the Parties agreed to schedule the Deposition
22 of Defendants' FRCP 30(b)(6) designee to April 25, 2019, beyond the current discovery
23 deadline. Finally, the Parties are ascertaining the necessity of third-party subpoenas duces
24 tecum, and supplemental disclosures relating to the same.

25 The Parties further agree that they need to complete outstanding discovery to properly
26 resolve this matter on the merits, beginning with dispositive motions. *See Nelson v. Safeco Ins.*
27 *Co. of Illinois*, 2011 WL 13848, at *2 (D. Nev. Jan. 4, 2011). This is the Parties' third request
28 for an extension of discovery, and the Parties anticipate that no further extensions will be

1 necessary. Again, the Parties seek a modest, 30-day extension, and do not intend to cause any
2 undue delay or prejudice. Consequently, good cause exists under Rule 16(b)(4) to modify the
3 current discovery schedule.

4 Although the Parties make this request within 21 days of the current discovery deadline,
5 the request is permissible. *See* LR 26-4 (“A motion or stipulation to extend a deadline set forth
6 in a discovery plan must be received by the court no later than 21 days before the expiration of
7 the subject deadline.”). First, the Parties do not ask to reopen any lapsed discovery deadline (e.g.
8 expert deadlines) at this time, and the current April 11, 2019, discovery cutoff has not passed.
9 Second, to the extent the requested extension is required to timely request, obtain, and exchange
10 outstanding discovery, the extension is necessitated by mere excusable neglect: logistical issues
11 associated with prospective deposition scheduling and disclosures support a common-sense
12 extension. *Bateman v. U.S. Postal Service*, 231 F.3d 1220, 1223–24 (9th Cir. 2000) (citing
13 *Pioneer Investment Services Co. v. Brunswick Assoc. Ltd. Partnership*, 507 U.S. 380, 395 (1993)
14 and noting that “[t]he determination of whether neglect is excusable is an equitable one that
15 depends on at least four factors: (1) the danger of prejudice to the opposing party; (2) the length
16 of the delay and its potential impact on the proceedings; (3) the reason for the delay; and (4)
17 whether the movant acted in good faith.”).

18 **D. PROPOSED DISCOVERY EXTENSION:**

19 1. Current Discovery Schedule Per the March 6, 2019, Order (Docket No. 48):

20	Deadline to complete discovery:	April 11, 2019
21	Deadline to amend pleadings/add parties:	November 13, 2018
22	Initial expert disclosures:	December 13, 2018
23	Rebuttal expert disclosures:	January 14, 2019
24	Dispositive motion deadline:	April 11, 2019

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2. Proposed Stipulated Discovery Schedule:

Deadline to complete discovery: **May 11, 2019**

Deadline to amend pleadings/add parties: November 13, 2018 (no change)

Initial expert disclosures: December 13, 2018 (no change)

Rebuttal expert disclosures: January 14, 2019 (no change)

Dispositive motion deadline: **June 11, 2019**

DATED this 4th day of April, 2019.

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IT IS SO ORDERED:


UNITED STATES MAGISTRATE JUDGE

DATED: April 8, 2019

4831-0624-2448, v. 2